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 8 U.S. Food and Drug Administration

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA
 11 SAN FRANCISCO DIVISION

12 ANIMAL LEGAL DEFENSE FUND,

13 Plaintiff,

14 v.

15 UNITED STATES FOOD AND DRUG
 16 ADMINISTRATION,

17 Defendant.

Case 3:12-cv-04376-EDL

**STIPULATION AND ~~[PROPOSED]~~
 ORDER RE STAY PENDING APPEAL
 DETERMINATION**

STIPULATION

WHEREAS, on January 23, 2019, the Court issued its Findings of Fact & Conclusions of Law (ECF 169) and then entered Judgment (ECF 170), ordering FDA to release, within 30 days, the subject EIRs with the total number of hen houses, the total number of floors per hen house, the total number of cage rows per hen house, and the total number of cage tiers per hen house;

WHEREAS, the government’s deadline to file an appeal is sixty days from the date of the Court’s Judgment, or March 25, 2019 (as March 24, 2019 falls on a Sunday). See 28 U.S.C. § 2107(b); Fed. R. App. P. 4(a)(1)(B);

WHEREAS, the decision whether to appeal rests with the Solicitor General of the United States, who needs time to consider the issue. See 28 C.F.R. § 0.20(b).

WHEREAS, defendant FDA has requested an extension of the production deadline, in order to allow the government to consider its appellate options within the congressionally-established timeframe, and plaintiff ALDF has agreed to FDA’s request.

IT IS HEREBY STIPULATED, by the parties to the action, through their counsel of record that:

1. FDA’s deadline to release the records ordered in the Judgment (ECF 170) shall be extended to Monday, March 25, 2019.

2. In the event that FDA elects to file a Notice of Appeal before that time, FDA’s obligation to release the records ordered in the Judgment (ECF 170) shall be stayed pending appeal.

Respectfully submitted,

Dated: February 5, 2019

DAVID L. ANDERSON
United States Attorney
/s/ Wendy M. Garbers
Wendy M. Garbers
Assistant United States Attorney
Counsel for Defendant FDA

Dated: February 5, 2019

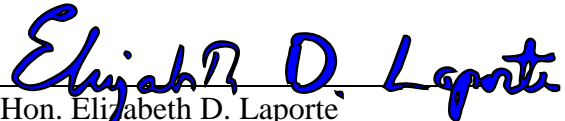
/s/ Karen Johnson-McKewan*
KAREN JOHNSON-MCKEWAN
ORRICK, HERRINGTON & SUTCLIFFE LLP
Counsel for Plaintiff ALDF

1 **In compliance with Civil Local Rule 5-1(i)(3), the filer of this document attests under penalty of perjury*
2 *that each signatory has concurred in the filing of this document.*

3
4 **[PROPOSED] ORDER**

5 Pursuant to Stipulation, IT IS SO ORDERED.

6
7 DATED: February 7, 2019

8 
9 Hon. Elizabeth D. Laporte
10 United States Magistrate Judge